IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE

First Appeal No. 99 of 1989
with
Cross Objection (St) No.3068 of 1991

The Special Land Acquisition Officer, Panvel ..Appellant

vs.

Eddie Martin Alvares, since deceased through his heirs and legal representatives -
1. Joseph Antony Alvares and others ..Respondents

Shri K.K.Tated, A.G.P. for appellant.

CORAM: S.B.MHASE J.
4th August,2006

ORAL JUDGMENT:

1. Heard the learned Counsel for the appellant.

2. This appeal is directed against the judgment and decree passed in Land Acquisition Reference No.309 of 1986 by the District Judge, Raigad, Alibag at Alibag on 5th March, 1988. The lands of the respondents bearing Survey Nos. 132/2, 132/3, 133/2, 66/0 and 91/1 situated at village Taloja Panchanad, Taluka Panvel have been acquired for New Bombay project i.e. for establishing the new township of New Bombay. The notification for the said purpose was issued under sec.4 of the Land Acquisition At on 3rd February, 1970 and award in this respect was passed on 4th September, 1985.

The price was fixed at the rate of Rs.3/- per sq.meters. Since the respondents were aggrieved by the said price they accepted the same under protest and filed reference bearing no.309 of 1986. Initially they claimed enhanced compensation at the rate of Rs.7/- per sq.meter but lateron they amended the land reference and claimed at the rate of Rs.20/- per sq.meter. The Land Reference Court granted the compensation at the rate of Rs.12/- per sq.meter in respect of the land bearing survey no.132/3. So far as land survey nos.132/2,133/2 and 90/1 is concerned the Court has granted the rate at the rate of Rs.15/- per sq.meter and in respect of survey no.66 at the rate of Rs.16/- per sq.meter. It is also to be noted that in this matter evidence which has been brought on record by the respondents is of the valuer Shri Kulkarni. Shri Kulkarni has visited the site and prepared the map and taking into consideration the sale transactions of the lands in Land Reference No.4 of 1972 and 309 of 1987 which are in the vicinity of the acquired land. These land references were in respect of the lands which were acquired on the basis of the notification which was issued on 4th February, 1972. From the date it is seen that there is only a difference of one day in the notification under sec.4 and, therefore, the market price as reflected in the land reference nos. 4 of 1972 and 309 of 1987 has to be accepted. What we

find that the valuer has taken into consideration the market price as fixed by the Court and thereafter several circumstances, namely, the lands under acquisition are situated adjacent to the highway and/or railway line. Taking over all situation of the matter, the valuation has been carried out by the land reference court. Nothing has been demonstrated by the learned counsel to show that any substantial error has been committed by the reference court. The appeal is without any merit. It is hereby dismissed.

3. Learned counsel for the respondents is absent. There are cross objections on record. We find that the price which is being carried out by the reference court is based upon the decision of the other land reference which are referred to above and taking into consideration those decisions and additional price has been allotted in respect of the acquired land. Reference Court has taken into consideration the different prices per sq.meter in respect of different portions of the lands taking into consideration the typography of the said lands. Therefore, the cross objections are equally without merit. The cross objections are also dismissed.

(S.B.MHASE J.)

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Officer, Panvel ..Appellant

vs.

Eddie Martin Alvares, since
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1. Joseph Antony Alvares and
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CORAM: S.B.MHASE J.

4th August,2006

P.C.

. Govt.Pleader was absent when the matter was called out. Equally the respondent is also absent. Therefore, the appeal and cross objections are dismissed.

(S.B.MHASE J.)

FARAD CONTINUATION SHEET NO.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

First Appeal No. 99 of 1989

Office NOtes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's order	Court or Judge's Order

Shri K.K.Tated, A.G.P. for appellant.

CORAM: S.B.MHASE J.
8th August,2006

P.C.

. The matter was dismissed some time before, however, on mention being made by the Govt. Pleader, the order dismissing the first appeal is recalled and the first appeal is taken up for final hearing forthwith.

(S.B.MHASE J.)